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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,109	05/05/2004	Martin Weel	1116-063	9461
71739 7590 06/08/2010 WITHROW & TERRANOVA CT 100 REGENCY FOREST DRIVE , SUITE 160 CARY, NC 27518			EXAMINER LUU, LE HIEN	
			ART UNIT 2454	PAPER NUMBER
			MAIL DATE 06/08/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/840,109	Applicant(s) WEEL, MARTIN	
	Examiner Le Luu	Art Unit 2454	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/26/10 - 03/10/10.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35,37-39,41,43,45-50,52,53 and 59-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35,37-39,41,43,45-50,52,53 and 59-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>03/10/10</u> . | 6) <input type="checkbox"/> Other: _____ |

1. Claims 35, 37-39, 41, 43, 45-50, 52-53, and 59-62 are presented for examination.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 35, 37-39, 41, 43, 45-50, 52-53, and 59-62 are rejected under 35 U.S.C. § 103 (a) as being unpatentable Szeto et al. (Szeto) Pub. No. 2005/0262204, in view of Higgins et al. (Higgins), Pub. No. 2004/0119894, and Janik, Pub. No. 2005/0113946.

4. As to claim 35, Szeto teaches the invention as claimed, including a method for playing media the method comprising:

displaying on a first device at least one user identifier identifying a second device (Fig 3; pages 3-4, paragraphs [0024 - 0029]);

selecting, via user input at the first device, the at least one user identifier (Fig 3; pages 3-4, paragraphs [0024 - 0029]);

receiving on the first device a playlist, the received playlist comprising a plurality of media item identifiers (Fig 3; pages 3-4, paragraphs[0024 - 0029]);

selecting at least one media item identifier from the received playlist (Fig 3;

pages 3-4, paragraphs[0024 - 0029]); and

directing the second device to receive a media item identified by the at least one media item identifier from a content server (Fig. 4; pages 4-5 , paragraph [0034]).

However, Szeto does not explicitly teach device identifier identifying a second device, nor the directing step is directed by the first user without user input via the second device.

Higgins teaches using device identifiers for identifying devices. Additionally, each of one or more device identifiers is uniquely associated with a device such as a television, a television receiver, an audio-video receiver, a DVD player, a VCR, and an MP3 player (Higgins, pages 4-6, paragraphs [0052 ; 0056 - 0057]; page 6, claim 3).

Janik teaches a PDA is used as an enhanced remote controller and/or player, and the PDA can be used as a remote control to manipulate a playlist on a PC to play a track on a stereo system (Janik, pages 5 and 7-8, paragraphs [0070 - 0080, 0100 – 0101, 0106 - 0108]).

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention to combine the teachings of Szeto, Higgins, and Janik to use device identifier to identify the second device and have the first device directs the second device to receive a media item without user input via the second device because it would allow user to listen to music on stereo system.

5. As to claims 37-39, 41, 43, and 45-47, Szeto, Higgins, and Janik teach a first device comprises one of a handheld portable device, a palmtop, an MP3 player, a

mobile phone, a remote control to control the second device; displaying a plurality of device identifiers on the first devices, wherein each of the plurality of device identifiers identifies a corresponding device, and wherein selecting, via user input at the first device, the at least one device identifier further comprises selecting, via user input at the first device, the at least one device identifier from the plurality of device identifiers; playing a plurality of at least one media item in different order; providing a recommendation of a playlist name based upon listening habits of a listener (Szeto, Fig 3; pages 1-4, paragraphs[0015, 0023 – 0029]; Higgins, pages 4-6, paragraphs [0052 ; 0056 - 0057]; page 6, claim 3; Janik, pages 5 and 7-8, paragraphs [0070 - 0080, 0100 – 0101, 0106 - 0110]).

6. Claims 48-50, 52-53, and 59-62 have similar limitations as claims 37-39, 41, 43, and 45-47; therefore, they are rejected under the same rationale.

7. Applicant's arguments with respect to claim 35, 37-39, 41, 43, 45-50, 52-53, and 59-62 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's amendment necessitated the new grounds of rejection. Accordingly, THIS ACTION IS MADE FINAL. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED

STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le Luu whose telephone number is 571-272-3884. The examiner can normally be reached on 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Le Luu/

Primary Examiner, Art Unit 2454